

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DANIEL WHITE : CIVIL ACTION
 :
 :
v. :
 :
JOHN E. WETZEL, et al. : NO. 13-2966

ORDER

AND NOW, this 21st day of April, 2014, upon consideration of petitioner Daniel White's initial pro se habeas corpus petition filed pursuant to 28 U.S.C. § 2254 (docket entry # 1), and his revised petition filed on the Court's current standard form (docket entry # 3), our Order referring the matter to the Honorable David R. Strawbridge for a report and recommendation (docket entry # 4), Judge Strawbridge's report and recommendation ("R&R") (docket entry # 8), to which White has filed no objection, and the Court finding that:

- (a) White seeks habeas relief based on, inter alia, a retroactive application of Miller v. Alabama, __ U.S. __, 132 S. Ct. 2455 (2012);
- (b) This Court and other courts in our District have placed in suspense other habeas corpus petitions seeking relief under Miller pending a Supreme Court decision on whether to grant certiorari in an appeal from Commonwealth v. Cunningham, -- A.3d --, 2013 WL 5814388 (Pa. 2013), in which the Pennsylvania Supreme Court held that the prohibition announced in Miller v. Alabama, 132 S. Ct. 2455 (2012) against mandatory life without parole sentencing schemes for juveniles did not apply retroactively, or pending another statement from the United States Supreme Court regarding Miller's retroactivity; and
- (c) Judge Strawbridge recommends that, in line with that approach, we stay this case;

It is hereby ORDERED that:

1. Judge Strawbridge's report and recommendation (docket entry # 8) is APPROVED AND ADOPTED;
2. This case is STAYED;
3. The Clerk of Court shall TRANSFER the case from the Court's Active docket to our Civil Suspense docket, and the case shall remain in suspense until any final determination by the Supreme Court on whether to grant certiorari in an appeal from Commonwealth v. Cunningham, -- A.3d --, 2013 WL 5814388 (Pa. 2013) or otherwise to resolve the question of the retroactive application of Miller v. Alabama, __ U.S. __, 132 S. Ct. 2455 (2012); and

4. White shall NOTIFY this Court within 45 days following the conclusion of his state court proceedings, and failure to do so may result in dismissal of White's petition.

BY THE COURT:

/s/ Stewart Dalzell, J.